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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,089	02/08/2001	David L. Kachler	2400-585	1668

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EXAMINER

BUTLER, MICHAEL E

ART UNIT PAPER NUMBER

3653

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/779,089

Applicant(s)
Kaehler et al.

Examiner
Michael E. Butler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/22/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above, claim(s) 25-38, 40, 41, 43, and 44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 17-21, 23, 24, 39, and 42 is/are rejected.
- 7) ☒ Claim(s) 4-16 and 22 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 and 5 6) ☐ Other:

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DETAILED ACTION

Election/Restriction

1. Applicant's election of invention I without traverse of the restriction requirement in Paper No. 5 is acknowledged and made final.

IDS

2. The information disclosure statement filed 12/02/02 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the Japanese and French language information referred to therein has not been considered. Substantial matter is frequently disclosed outside the context of the abstract yet omitted from the abstract as the abstract is directed a summary of the claimed invention rather than summarizing the entire disclosure. As such, it is not possible to discern from the abstract whether relevant matter is disclosed. Accordingly, the foreign language references have been placed within the file, have not been considered beyond the abstract, and have been struck from the 1449 form.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior

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art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 19-20, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman et al. in view of Miyashita et al., in which the former discloses:

(re: cl 1) a vending machine under remote control with customer selectable product dispensing (abstract; c3 L 30-37)
(re: cl 19) dispensing triggered on pseudorandom basis (c3 L 57-c4 L 25)
(re: cl 20) microprocessor generates pseudorandom signal (c3 L 57-c4 L 25)
(re: cl 39) accepting payment (c3 L 45-56).

Miyashita et al. discloses a method and apparatus for vending of both a selected product and a special product in the same transaction (abstract).

It would have been obvious at the time of the invention to modify the Goldman et al. to dispense both a selected and special the additional special product in the same transaction to provide a bonus incentive to select the vending machine as taught by Miyashita et al. and thereby come up with the instant invention.

See MPEP 2114 regarding the use of functional limitations in apparatus claims particularly regarding claims 2-3.

5. Claims 1-3, 19-21, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita et al. in view of Kolls et al. in which the former discloses:

(re: cl 1) a vending machine with customer selectable product dispensing plus common transaction random generated special product dispensing.(abstract);
(re: cl 19) dispensing triggered on pseudorandom basis (fig 11);
(re: cl 20) microprocessor generates pseudorandom signal (fig. 11).

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Kolls et al. discloses: (re: cl 1, 21, 39) a vending machine under remote wireless control (p 24 L 5-16).

It would have been obvious at the time of the invention to place Myashita et al. under remote wireless control to monitor transactions criterion, update inventory status, as taught by Kolls et al. and thereby come up with the instant invention.

6. Claims 1-3, 17, 19-20, 24, 39, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myashita et al. and Wittern, Jr. et al. in which:

Myashita et al. discloses the elements discussed previously.

Wittern, Jr. et al. discloses:

(Re: cl 1, 39) Remote vending machine transaction control system for single transaction dispensing having (c4 L 5-13)

(re: cl 17) special and selected product dispensed concurrently (c6 L 13-27)

(re: cl 24) special and selected product dispensed remotely (c6 L 13-27)

(re: cl 39) receiving selection from customer dispensing special product, vending selected product, if special product dispensed in same transaction (c2 L 7-21)

(re: cl 18,42) separate inventories (15vs 21 vs 22 Fig. 1).

It would have been obvious at the time of the invention to place Myashita et al. under remote control to monitor transactions criterion, update inventory status, as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for to use separate inventories Myashita et al. to gain the diversity and inventory of plural machines as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

It would have been obvious at the time of the invention for to dispense concurrently and remotely to Myashita et al. to provide incentives for the purchase of

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complementary products from differing machines as taught by Wittern, Jr. et al. and thereby come up with the instant invention.

7. Claims 1-3, 18-20, 23, 39, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myashita et al. in view of Peters et al. in which the former discloses:the elements previously discussed.

Peters et al. discloses:

(re: cl 23) special product comprising digital data dispensed (p8-top; p31) under remote control (p10 middle).

(re: cl 18, 42) special and selected product are housed separately with separate dispensing channel (p12 top).

It would have been obvious at the time of the invention to place Myashita et al.

under remote control to monitor transactions criterion, update inventory status, as taught by Peters et al. and thereby come up with the instant invention. It would have been obvious at the time of the invention for Myashita et al. to be used with digital data vending to service customers desiring digital data products and separate housing of products on the database update inventory status, as digital data inventory can be stored in greater customer variety if residing on a plurality of remote from the vending machine the taught by Peters and thereby come up with the instant invention.

Allowable Subject Matter

8. Claims 4-16, and 22 are objected to as being dependent claims premised upon a rejected base claim but would be allowed if the re-written in independent form or if the limitations of an allowable claim were incorporated within the independent base claim from which this claims depend or if re-written premised upon dependence from an otherwise allowable base claim.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

Michael E. Butler

Michael E. Butler

Examiner


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